



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

March 11, 1953

Hon. Wardlow Lane, Chairman
Senate Committee on Civil Jurisprudence
53rd Legislature
Austin, Texas

Letter Opinion No. MS-08

Re: Constitutionality of House
Concurrent Resolution 24 of
53rd Legislature that no
statute of limitation shall
bar the claim of Mr. R. E.
Cowan against Jefferson
County for the balance of
his 1933 salary as District
Clerk of Jefferson County.

Dear Sir:

You have requested an opinion of the validity of House Concurrent Resolution No. 24 of the 53rd Legislature which provides that the limitation statutes shall not be available to Jefferson County in regard to a claim against the county by R. E. Cowan for unpaid compensation.

The general limitation statutes are with certain defined exceptions available in defense of suits by counties. Harris County v. Charlton, 112 Tex. 19, 243 S.W. 460, 245 S.W. 644 (1922); Hatcher v. State, 125 Tex. 84, 81 S.W.2d 499 (1935); Travis County v. Matthews, 235 S.W.2d 691 (Tex.Civ.App. 1950, error ref. n.r.e.). While the Legislature may have the authority to provide that the limitation statutes shall not be available to counties, it cannot so amend the limitation statutes by a concurrent resolution. It is stated in Conley v. Texas Division of United Daughters of the Confederacy, 164 S.W. 24 (Tex.Civ.App. 1913, error ref.) at page 26:

"The chief distinction between a resolution and a law seems to be that the former is used whenever the Legislative body passing it wishes to merely express an opinion to some given matter or thing,

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and is only to have a temporary effect on such particular thing, while by the latter it is intended to permanently direct and control matters applying to persons or things in general."

Furthermore, Section 56 of Article III of the Constitution of Texas prohibits local or special legislation regulating the affairs of counties. It is apparent that House Concurrent Resolution No. 24 attempts to regulate the affairs of Jefferson County. Since it applies only to Jefferson County and a particular claim without any basis of classification it is local and special in nature. Bexar County v. Tynan, 128 Tex. 223, 97 S.W.2d 467 (1936); Miller v. El Paso County, 136 Tex. 370, 150 S.W.2d 1000 (1941); Anderson v. Wood, 137 Tex. 201, 152 S.W.2d 1084 (1941). In view of the foregoing you are advised that House Concurrent Resolution No. 24 is invalid.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By
John Reeves
Assistant

JR:am